

## **ARIZONA STATE, TRIBAL & FEDERAL COURT FORUM REPORT**

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Friday, March 7, 2003 10:00 a.m. - 3:00 p.m.  
Sandra Day O'Connor Federal Courthouse  
Phoenix, AZ

<b><u>Members Present</u></b>	<b><u>Participants</u></b>	<b><u>Members Absent</u></b>
Hon. Michael C. Nelson	David L. Withey, Staff	Hon. Leroy S. Bedonie
Hon. William Canby, Jr.	Quannah Ged	Hon. Cornelia Cruz
Mark Curry		Hon. Gary LaRance
Frederick Steiner, Jr.		Hon. Sherry Hutt
Sue Hall		Hon. Malcolm Escalante
Hon. Earl Carroll		Frederic Kay
Diane Humetewa		Hon. Neil Flores
		Hon. Gloria Kindig
		Hon. Kathleen Gratz
		James Redpath
		Hon. William R. Rhodes
		Kathlene M. Rosier
		Hon. Charles T. Brandel, Jr.

### **CALL TO ORDER**

Judge Nelson called the meeting to order at about 10:15 AM.

### **PRIOR MEETING REPORT APPROVAL**

Members present had no changes to November 15, 2002 meeting report.

### **STATUS REPORTS**

**A Tribal Laws and Courts Work Group** - *(Work group Chair, Kathleen Rosier was unable to attend the meeting but provided an e-mail received following the meeting. Relevant information from this e-mail is incorporated in this report.)*

- **Compilation and publication of laws of most interest to Non-Indians - (commercial, hunting and fishing, traffic)** - ASU Law Students have not undertaken this project yet. ASU students may be available this summer. At Judge Carroll's suggestion, David Withey will contact University of Arizona and Northern Arizona University Indian programs to see if professors and students would be interested in providing research assistance to the Forum.



- **Indian Law Seminar at Arizona Judicial Conference** - ASU College of Law Indian legal Programs will sponsor a program at the judicial conference in June (*scheduled for June 19, 2003, 9 AM to Noon*). Mr. Withey will contact Rebecca Tsosie to assist in planning.
- D. Court Forum Web Pages** - Mr. Withey demonstrated the layout of Forum web pages at the beginning of the meeting. The pages will soon be installed on the Arizona Supreme Court web site and the web address will be provided.
- E. Tribal court domestic violence protective orders incorporation into state database** -Mr. Withey reported that he had not received any communication from Judge Brandel regarding connecting the San Carlos Apache Tribal Court to the Arizona database.
- F. QUADRO Legislation** - Members suggested that this congressional bill be promoted by contacting the Intertribal Council of Arizona (Mr. Curry volunteered) and by sending it to chief judges of tribes so they can ask that it be included on each tribes legislative agenda. Mr. Withey will include this in a mailing to chief judges on Forum membership.
- G. Indian Law question on Bar exam** - Ms. Humetewa suggested a generic endorsement by Forum of including Indian law issues. She informed members that the Indian Law section had pursued this in the past and will determine the status of their efforts. Mr. Withey will obtain more information on the recent action on this subject in New Mexico.

## **NEW BUSINESS**

- A. Information sheets on protocol for probation supervision by state probation officers within reservation boundaries and by tribal probation officers in each county outside reservation boundaries** - Mr. Withey will ask Administrative Office of the Courts probation division directors to assist in identifying any existing protocols for on reservation supervision.
- B. Four Corners Tribal-State-Federal Judicial Exchange** - Forum members indicated interest in participating in this event and are willing to contribute the expertise of members and staff. Mr. Withey will convey this interest.
- C. DUI Criminal History Exchange** - Judge Nelson reported that Joe Shirley, Navajo Nation President, wants DUIs from the Navajo Nation courts included in state databases so they are accessible to federal and state courts and licensing authorities. Ms. Humetewa explained Pres. Shirley's family tragedy that prompted this interest. Federal sentencing currently does not count prior tribal convictions due to lack of attorney representation. A proposal is pending to count "counseled priors". Vehicular manslaughter sentencing guidelines are being reconsidered. Tribal conviction is currently used for enhancement only not as a prior conviction like a state court conviction. There is an issue as to whether tribal court convictions of persons not represented by an attorney can be used to enhance sentences. Judge Nelson questioned how the Forum can take advantage of this opportunity to share information? Mr. Withey will consult AOC staff responsible for criminal history record information.
- D. Next Meeting** - Mr. Withey will identify a location and a date during the second or third week in July, 2003. Ms. Humetewa suggested the Yavapai-Prescott Tribal Court as a

possible location.

**ADJOURNMENT**

The meeting adjourned at about 2:30 PM. Judge Canby provided a tour of the courthouse.